

Hamilton Ranch
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EXHIBIT 12
DATE 4.3.07
SB 78

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Comments: SB78

Mr Chairman, members of the committee,

My name is George Trischman, for the past 18 years I have managed Hamilton Ranches in Madison and Beaverhead counties.

Much has been said today about the ongoing litigation over the issue of bridge access, very few of the speakers truly have a dog in the fight. We are litigants in the Madison County Bridge Access case. One of the bridges borders our property. The current case has drug on for nearly three years as of now. It has not come to trial and most likely will not. My reason for bringing this up is that on nearly every issue or point of order that the court has ruled on in the case has gone in our favor. In my opinion the plaintiffs are losing this issue in court and had SB78 drafted as an attempt to endrun an unfavorable verdict from the court. Litigation or the threat of litigation is no reason to either support or oppose this bill. The only issues are individual private property rights and a backdoor attempt to expand the Montana Stream Access Law.

INTERVENED
We ~~filed suit~~ in the Madison County case because, we felt the mandated access created by the ordinance was a clear taking of private property rights with no compensation considered. We view SB78 as the same. At very few if any of these bridge crossings can an individual access from the county road right of way to within three feet of the high water mark on the streambank without trespassing on private property. In addition the county road in this case is a prescriptive easement. A prescriptive easement is clearly defined under Montana law as the width of the traveled right of way or in the case of a bridge the width of the bridge. The copy of SB78 that I have seems to address prescriptive easements rather vaguely only in Section 3, paragraph 5, lines 29 and 30, by saying, "Access to streams and rivers from a county road or bridge created by prescription is dependant upon the use of the road or bridge during the prescription period." Huh? Furthermore, I don't know of any county roads that are signed as to whether they were created by prescription or by purchased dedicated easements. Will they be signed? How will the public make this distinction?

Fish, Wildlife and Parks has a funded access acquisition program, let them use it to purchase or lease access on a willing buyer-willing seller basis.

We "Hamilton Ranches" have always allowed the public free fishing access on the Ruby, Beaverhead, Big Hole, and Jefferson Rivers. We own about 25 miles of frontage along these rivers and have been proud to share them with the public. Over the past 18 years I don't believe I have ever turned a fisherman away. The only thing we ask of them is please ask us first. Our policy has always been if they ask permission, they are welcome. We just like to know who is on our property. My employer was born and raised in Montana. The privilege of being able to hunt and fish on others private land by asking their permission is a part of Montana he remembers and has tried to maintain.

We also provide to FWP and the public a fishing access site on the Big Hole River. This site is provided to FWP by an annual lease at no charge. It has the only boat launch or take-out on the lower 10 miles of the Big Hole and upper ten miles of the Jefferson.

The above said, I don't like threats so this I will promise. If this governor and this legislature are going to mandate public access onto and across private property, that will be the only access the public will have on our property and we will look for a way to challenge that. On our place the public will have much less access than they do now.

Thank You,

George Trischman